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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/718,929

11/19/2003

Karl Guthrie

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EXAMINER

LUGO, CARLOS

ART UNIT

PAPER NUMBER

3676

MAIL DATE

DELIVERY MODE

07/30/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/718,929

Applicant(s)

GUTHRIE ET AL.

Examiner

Carlos Lugo

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 34-62 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 34-62 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to applicant's RCE filed on June 18, 2007.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 34-45, 58 and 59 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,702,218 to Onofrio in view of US Pat No 3,332,118 to Temple et al (Temple) and further in view of US Pat No 4,615,514 to Hamlin.

Regarding claim 34, Onofrio discloses a toggle bolt comprising a hole plug (16') that has a hole plugging portion (main body) for centering the plug in the hole (22) and a lip portion (where 16' is pointing in Figure 7) for fixing the position of the plug against the object (24).

The bolt further comprises a toggle bar (18) adapted for pivoting between a closed position for insertion through the hole into the opening space and an open position in which the toggle bar cannot be withdrawn from the opening space back through the hole.

Onofrio fails to disclose that a flexible cable having a proximal end having an anchoring attachment and a distal end connected to the toggle bar. At the instant, Onofrio discloses the use of a rod.

Temple teaches that it is well known in the art to have a flexible member that could be a cable (Figures 1 and 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the member described by Onofrio as a flexible cable, as taught by Temple, in order to, first, provide a simple way to operate the toggle bar, and second, in order to provide a mechanism that will be simple in construction and in operation.

Further, Onofrio fails to disclose that an end of the toggle bar is adapted for locking engagement with the hole plug in the closed position. Onofrio illustrates that the ends of the toggle bar are capable to rest against the cone surface of the hole plug (16') in the closed position.

Hamlin teaches that it is well known in the art to provide a plug (36) that includes a recess that is capable of receiving and holding a toggle bar in a closed position.

It would be obvious to one having ordinary skill in the art at the time the invention was made to provide the plug member described by Onofrio with a recess that can be adapted to receive the toggle bar, as taught by Hamlin, in order to hold the toggle bar in the closed position so as to introduce the bar through the opening of the member.

As to claim 35, Onofrio, as modified by Hamlin, teaches that the end of the toggle bar is adapted for releasable retention in a recess of the hole plug to provide the locking engagement.

As to claim 36, Onofrio, as modified by Temple and Hamlin, teaches that the cable extends through a substantially centrally disposed aperture through the hole plug, and wherein the end of the toggle bar is tapered to provide for the retention.

As to claims 37-39, Onofrio discloses that the toggle bolt further comprises a plug biasing compression spring (26) for biasing the hole plug toward the toggle bar.

As to claims 40-45, Onofrio fails to disclose that the toggle bolt further comprises a toggle bar pivot control member for manipulation of the toggle bar.

Hamlin teaches that it is well known in the art to provide a toggle pivot control member (25 or 27) for manipulation of a toggle bar (20 or 22).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the toggle bolt described by Onofrio with a control member, as taught by Hamlin, in order to be able to move the toggle bar.

As to claims 58 and 59, Onofrio, as modified by Temple and Hamlin, teaches a method for anchoring to an object having a hole therethrough leading to an opening space comprising the steps of providing a safety toggle bolt having a handle member and a toggle bar pivotally connected to the handle member; locking the toggle bar in a closed position; inserting the safety toggle bolt through the hole; and pushing on the handle member so as to unlock the toggle bar from the closed position and releasing the handle member after pushing the handle member so that the toggle bar is automatically pulled toward the hole plug to adjust the bolt.

4. **Claims 46-57 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,702,218 to Onofrio in view of US Pat No 3,332,118 to Temple et al

(Temple) and further in view of US Pat No 4,615,514 to Hamlin as applied to claims 34-45, and further in view of US Pat No 5,209,621 to Burbidge.

Onofrio, as modified by Temple and Hamlin, fails to disclose that the toggle bar further comprises a toggle bar return spring attached to the toggle bar.

Burbidge teaches that it is well known in the art to have a toggle bolt assembly comprising a toggle bar (18) that has a toggle bar returns spring (40).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate into Onofrio's device a toggle return spring, as taught by Burbidge, in order to bias the toggle bar to the open position after been inserted through the opening.

5. **Claim 60 and 62 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,702,218 to Onofrio in view of US Pat No 3,332,118 to Temple et al (Temple) and further in view of US Pat No 4,615,514 to Hamlin as applied to claims 34 and 40, and further in view of US Pat No 3,288,014 to Mortensen.

Onofrio, as modified by Temple and Hamlin, fails to disclose that the flexible cable and the toggle bar pivot control member extend through respective apertures at the hole plug.

Mortensen teaches that it is well known in the art to provide a plug (10) that includes apertures (Figures 5 and 6) so that a member (38) and a pivot control member (26) can extend in a respective aperture.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the hole plug described by Onofrio, as modified by

Temple and Hamlin, with respective apertures for the members that extends through the plug, as taught by Mortensen, in order to separate the members so as to prevent any rupture or damage between the members that pass through the plug.

6. **Claim 61 is rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,702,218 to Onofrio in view of US Pat No 3,332,118 to Temple et al (Temple), in view of US Pat No 4,615,514 to Hamlin and in view of US Pat No 3,288,014 to Mortensen as applied to claim 60, and further in view of US Pat No 5,209,621 to Burbidge.

Onofrio, as modified by Temple, Hamlin and Mortensen, fails to disclose that the toggle bar further comprises a toggle bar return spring attached to the toggle bar.

Burbidge teaches that it is well known in the art to have a toggle bolt assembly comprising a toggle bar (18) that has a toggle bar returns spring (40).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate into Onofrio's device a toggle return spring, as taught by Burbidge, in order to bias the toggle bar to the open position after been inserted through the opening.


Response to Arguments

7. Applicant's arguments filed June 18, 2007 have been fully considered but they are not persuasive. the applicant persist that the examiner's conclusion of obviousness is based upon improper hindsight. In response, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was

within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number is 571-272-7058. The examiner can normally be reached on 10-7pm EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer Gay can be reached on 571-272-7029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Carlos Lugo
Primary Examiner
Art Unit 3676

July 26, 2007.